

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

May 5, 2020 at 10:00 a.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Lindsey Peratis, the Courtroom Deputy, at (916) 930-4473 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.
3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.
4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	19-26207 -B-13	BEATRICE GOMEZ	MOTION TO CONFIRM PLAN
	AKA -2		3-16-20 [41]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

2. [19-27612](#)-C-13 DJENABA REYNOLDS MOTION TO CONFIRM PLAN
[SLH](#)-2 3-11-20 [[35](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

3. [19-27414](#)-B-13 GUADALUPE TAFOLLA MOTION TO CONFIRM PLAN
[MJH](#)-1 3-19-20 [[47](#)]

4. [19-26915](#)-B-13 SHERYON HUTCHINS MOTION TO CONFIRM PLAN
[TBK](#)-3 3-23-20 [[31](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

5. [20-20617](#)-B-13 APRIL MORSE
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-16-20 [[15](#)]

Final ruling:

On April 27, 2020, the Chapter 13 trustee filed a Withdrawal Of Chapter 13 Standing Trustee's Objection To Confirmation noting that all grounds for opposing confirmation of the debtor's Chapter 13 plan have been addressed and requesting the Objection To Confirmation. Therefore, the Objection To Confirmation is dismissed without prejudice, and the Chapter 13 plan is confirmed. No appearance necessary.

Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Trustee for approval as to form, and if so approved, the Trustee will submit the proposed order to the court. No appearance is necessary.

6. [20-20817](#)-C-13 RONALD COLLA
[PGM](#)-1

MOTION TO VALUE COLLATERAL OF
FORD MOTOR CREDIT COMPANY, LLC
3-26-20 [[17](#)]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

7. [19-21327](#)-B-13 JAVIER/JAMIE SILVA
[JCK](#)-3

MOTION TO MODIFY PLAN
3-18-20 [[58](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

8. [20-20527](#)-C-13 VIKAS/RITU VERMA
[JK-2](#)

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY AND/OR
MOTION FOR ADEQUATE PROTECTION
3-17-20 [[43](#)]

VONNEX-MADISON LLC VS.

9. [20-20228](#)-B-13 DALJEET BRAR
[CJK-1](#)

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY
LOANCARE, LLC
3-4-20 [[21](#)]

10. [20-20228](#)-B-13 DALJEET BRAR
[CLH-1](#)

MOTION TO VALUE COLLATERAL OF
FINANCIAL PACIFIC LEASING, INC.
3-23-20 [[26](#)]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

Tentative ruling:

On March 23, 2020, the debtor Daljeet Singh Brar ("Debtor") filed this Motion To Value Collateral And Memorandum In Support Of Motion To Value Collateral Of North Mill Equipment Finance, LLC ("Motion"). Dckt. 30. North Mill Equipment Finance, LLC ("Creditor"), is stated in the Motion to have a claim secured by Debtor's primary residence located at 1942 Landreth Lane, Manteca, California ("Property"). The relief sought by the Motion is for an order determining Creditor's \$169,318.00 claim to be secured in the amount of \$61,513.00 pursuant to 11 U.S.C. 506, and the remainder to be unsecured. But, the Motion has a number of deficiencies.

The foremost problem is that it is unclear whether this should be a motion to value secured claim pursuant to 11 U.S.C. 506, or a motion to avoid judgment lien pursuant to 11 U.S.C. 522. The Motion is silent on the nature of Creditor's secured claim, but Schedule D filed by Debtor indicates it is from a recorded judgement. Dckt. 1.

The analysis of the Motion seems to indicate Debtor really intended for a motion to avoid lien. It is stated that superior liens encumber the Property totaling \$288,487.00, that a homestead exemption of \$100,000.00 is claimed, and that the Property is worth \$450,000.00. A homestead exemption would not be part of the 11 U.S.C. 506 analysis for a consensual lien. And, the Motion requests a lien strip-down of Creditor's claim secured by Debtor's primary residence via 11 U.S.C. 506, which may not be permitted under Chapter 13 of the Bankruptcy Code. 11 U.S.C. 1322(b)(2); In re Zimmer, 313 F.3d 1220, 1221 (9th Cir.2002).

At times the Motion seems to mistakenly incorporate parts of another motion (Dckt. 26) filed by the debtor concurrently. The Motion references a freightliner, where the collateral subject to this Motion is the Property. And, the Motion states that Creditor's claim is completely under-collateralized and no portion of the secured claim should be allowed.

But, the conclusion of the Motion comes back to 11 U.S.C. 522 analysis, which is that Creditor's secured claim should be \$61,513.00 because the remainder impairs Debtor's claimed exemption (total liens of \$457,805.00 and exemption of \$100,000 less Debtor's interest in the Property of \$450,000.00 means \$107,805.00 of Creditor's lien impairs an exemption and can be avoided, leaving \$61,513.00 as a secured claim).

Based on the foregoing, the Motion will be denied without prejudice by minute order. This will allow Debtor's counsel to prepare the proper motion, provide the correct analysis, and provide all necessary evidence supporting the motion. Notably, such motion will need evidence showing the "superior" liens are in fact superior (one of the liens listed on Schedule D is a \$4,245 claim held by a CPA, which is presumably also a judgment lien for which the date of recording is unknown).

The court will hear the matter.

12. [20-20228](#)-B-13 DALJEET BRAR
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-2-20 [[18](#)]

13. [19-20233](#)-B-13 ALFONSO PULIDO
[GMW](#)-4

CONTINUED OBJECTION TO CLAIM OF
U.S. BANK, N.A., CLAIM NUMBER 6
10-11-19 [[83](#)]

14. [18-20638](#)-B-13 BRIAN/JESSICA CAMPOS
[JCK](#)-5

MOTION TO MODIFY PLAN
3-20-20 [[87](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

15. [17-27341](#)-B-13 DELORES GREY
[RJ](#)-4

MOTION TO MODIFY PLAN
3-18-20 [[75](#)]

16. [20-20648](#)-B-13 ALTON SLAUGHTER
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-16-20 [[13](#)]

Final ruling:

On April 27, 2020, the Chapter 13 trustee filed a Withdrawal Of Chapter 13 Standing Trustee's Objection To Confirmation noting that all grounds for opposing confirmation of the debtor's Chapter 13 plan have been addressed and requesting the Objection To Confirmation. Therefore, the Objection To Confirmation is dismissed without prejudice, and the Chapter 13 plan is confirmed. No appearance necessary.

Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Trustee for approval as to form, and if so approved, the Trustee will submit the proposed order to the court. No appearance is necessary.

17. [18-25756](#)-B-13 DAVID SIMS
[PGM](#)-4

CONTINUED MOTION TO CONFIRM
PLAN
10-15-19 [[119](#)]

18. [18-25756](#)-B-13 DAVID SIMS
[PGM](#)-5

CONTINUED MOTION TO REFINANCE
12-27-19 [[144](#)]

19. [20-20558](#)-B-13 KAREEM SYKES
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-16-20 [[33](#)]

20. [18-21661](#)-B-13 GERARDO LARA AND NORMA
[CLH](#)-5 CAMARENA

MOTION TO INCUR DEBT
4-15-20 [[150](#)]

21. [20-21461](#)-C-13 ARTHUR/TRISHA WHITTEN
[JHK](#)-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-6-20 [[19](#)]

FORD MOTOR CREDIT COMPANY
LLC VS.

Final ruling:

This matter is resolved without oral argument. This is Ford Motor Credit Company, LLC's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

22. [20-20763](#)-B-13 DAVID/WILLIETTE THOMAS CONTINUED OBJECTION TO
[RDG](#)-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-16-20 [[14](#)]

Final ruling:

On April 27, 2020, the Chapter 13 trustee filed a Withdrawal Of Chapter 13 Standing Trustee's Objection To Confirmation noting that all grounds for opposing confirmation of the debtor's Chapter 13 plan have been addressed and requesting the Objection To Confirmation. Therefore, the Objection To Confirmation is dismissed without prejudice, and the Chapter 13 plan is confirmed. No appearance necessary.

Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Trustee for approval as to form, and if so approved, the Trustee will submit the proposed order to the court. No appearance is necessary.

23. [20-21965](#)-B-13 GREGORY MARENGER MOTION TO EXTEND AUTOMATIC STAY
[SDH](#)-1 4-6-20 [[8](#)]

24. [19-27468](#)-C-13 EDDIE/CARYN GARDNER CONTINUED MOTION TO VALUE
[PGM](#)-2 COLLATERAL OF HSBC BANK USA,
N.A.
1-20-20 [[27](#)]

Final ruling:

Pursuant to the stipulated order entered on April 28, 2020, the hearing on this motion is continued to June 2, 2020 at 10:00 a.m. No appearance is necessary on May 5, 2020.

25. [19-27468](#)-C-13 EDDIE/CARYN GARDNER CONTINUED OBJECTION TO
[RDG](#)-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
1-13-20 [[24](#)]

Final ruling:

The hearing on this objection is continued to June 2, 2020, at 10:00 a.m., to be heard with debtors' motion to value collateral, item no. 24. No appearance is necessary on May 5, 2020.

26. [20-20170](#)-B-13 MARIA VILLARINO-PARRA CONTINUED OBJECTION TO
[JHK](#)-1 CONFIRMATION OF PLAN BY
CREDITOR FORD MOTOR CREDIT
COMPANY LLC
2-19-20 [[18](#)]
27. [20-20170](#)-B-13 MARIA VILLARINO-PARRA CONTINUED OBJECTION TO
[RDG](#)-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-2-20 [[22](#)]
28. [20-20071](#)-B-13 KIM WALKER MOTION FOR RELIEF FROM
[KMM](#)-1 AUTOMATIC STAY
3-18-20 [[41](#)]

HARLEY-DAVIDSON CREDIT CORP.
VS.

Final ruling:

This matter is resolved without oral argument. This is Harley-Davidson Credit Corp.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

29. [15-20676](#)-B-13 CARL FELKINS
[PGM](#)-1

MOTION TO REFINANCE
4-8-20 [[33](#)]

30. [19-21082](#)-B-13 RONDELL DANIEL

CONTINUED ORDER TO SHOW CAUSE -
FAILURE TO PAY FEES
3-9-20 [[65](#)]

31. [19-27682](#)-C-13 CHERI SILVA
[PGM](#)-1

CONTINUED MOTION TO CONFIRM
PLAN
2-25-20 [[26](#)]

32. [15-27287](#)-B-13 GINA TOSCANO
[PGM](#)-9

MOTION TO REFINANCE
4-8-20 [[153](#)]

33. [19-26888](#)-B-13 ELIZABETH MEDINA
[JBR-3](#)

MOTION TO CONFIRM PLAN
3-16-20 [[36](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

34. [19-26989](#)-B-13 MARGARET VIZINAU
[PR-1](#)

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
12-12-19 [[27](#)]

ROBERT ORTIZ VS.

35. [17-23390](#)-B-13 PEDRO/MEGAN ANGUIANO
[GW-4](#)

MOTION FOR COMPENSATION FOR
GERALD L. WHITE, DEBTORS
ATTORNEY(S)
3-27-20 [[57](#)]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.